

1 HONORABLE RONALD B. LEIGHTON
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

9 JOHN GARRETT SMITH,

CASE NO. C20-5319RBL

10 v. Petitioner,

ORDER

11 J COLEMAN,

12 Respondent.

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15 THIS MATTER is before the Court on Magistrate Judge Creatura's Report and
16 Recommendation [Dkt. # 10], recommending denial of Petitioner's motion to amend the §2254
17 habeas petition, and dismissal with prejudice. Petitioner Smith has objected.

18 (1) The Report and Recommendation is **ADOPTED**;

19 (2) Smith is not given leave to amend the First Petition. His Second Petition (Dkt. 9) is
20 the "functional equivalent" of a second or successive petition. The case is **DISMISSED**.

21 (3) For the reasons articulated in the R&R, the Court will **NOT** issue a Certificate of
22 Appealability; and

1 The Clerk is directed to send copies of this Order to Petitioner and to the Hon. J. Richard
2 Creatura.

3 IT IS SO ORDERED.

4 Dated this 12th day of August, 2020.

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7 Ronald B. Leighton
8 United States District Judge

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